

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

MICHAEL CORNELL,

Plaintiff,

v.

MYRTLE HILL COMPANY
DENTISTRY,

Defendant.

No. 4:12CV1523 AGF

MEMORANDUM AND ORDER

This matter is before the Court upon the motion of plaintiff for leave to commence this action without prepayment of the filing fee pursuant to 28 U.S.C. § 1915. Upon consideration of the financial information provided with the motion, the Court finds that Plaintiff is financially unable to pay any portion of the filing fee. As a result, Plaintiff will be granted leave to proceed in forma pauperis pursuant to 28 U.S.C. § 1915. Additionally, the Court has reviewed the complaint and will dismiss it for lack of subject matter jurisdiction.

Rule 12(h)(3) of the Federal Rules of Civil Procedure states: “If the court determines at any time that it lacks subject-matter jurisdiction, the court must dismiss the action.”

Plaintiff brings this action under state law against Myrtle Hill Company Dentistry for pain and suffering. Plaintiff alleges that he got a root canal but that it was not done correctly. Plaintiff claims he went to several dentists to have it fixed, but he continued to have problems to the point that his jaw got infected.

Plaintiff is a resident of Missouri. Plaintiff claims that Myrtle Hill is also located in Missouri. The amount in controversy is \$7,937.

Plaintiff may only bring an action in federal court under state law if the parties are from different states and the amount in controversy exceeds \$75,000. 28 U.S.C. § 1332. In this action, the parties are both from Missouri and the amount in controversy is less than \$75,000. As a result, the Court lacks jurisdiction to hear this case.

While Plaintiff may bring an action under federal law in this Court where the amount in controversy is less than \$75,000, the Court cannot envision any amendment to the complaint that might state a cause of action under federal law.

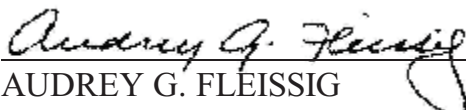
Accordingly,

IT IS HEREBY ORDERED that Plaintiff's motion to proceed in forma pauperis [Doc. 2] is **GRANTED**.

IT IS FURTHER ORDERED that this action is **DISMISSED** for lack of jurisdiction.

An Order of Dismissal will be filed with this Memorandum and Order.

Dated this 29th day of August, 2012.


AUDREY G. FLEISSIG
UNITED STATES DISTRICT JUDGE